

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

BRIAN KEITH COURTNEY, SR., #444293,

Petitioner,

v.

Civil No. 1:09-CV-10842
Honorable Thomas L. Ludington

DEBRA L. SCUTT,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL

Petitioner Brian Keith Courtney, Sr., a Michigan prisoner, seeks the issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his petition, he challenges his plea-based convictions for conducting a criminal enterprise, Mich. Comp. Laws § 750.159i(1), and obstruction of justice, Mich. Comp. Laws § 750.505. This matter is before the Court on Petitioner's motion for appointment of counsel. In support of his request, he states that his case involves complex issues, he has limited access to the prison law library, he has limited legal knowledge, and he is financially unable to retain legal counsel. Respondent has filed the state court record and an answer to the habeas petition. Petitioner has recently filed a reply to that answer.

Petitioner has no absolute right to be represented by counsel on federal habeas corpus review. *See Abdur-Rahman v. Michigan Dept. of Corrections*, 65 F.3d 489, 492 (6th Cir. 1995); *see also Wright v. West*, 505 U.S. 277, 293 (1992) (citing *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987)). “ ‘[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right.’ ” *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (quoting *United States v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965)). Petitioner has submitted his petition

and pleadings in support of his habeas claims. Neither an evidentiary hearing nor discovery are necessary at this time, and the interests of justice do not require appointment of counsel. *See* 18 U.S.C. § 3006A(a)(2)(B); 28 U.S.C. foll. § 2254, Rules 6(a) and 8(c).

Accordingly, it is **ORDERED** that Petitioner's request for appointment of counsel [Dkt. # 17] is **DENIED WITHOUT PREJUDICE**. The Court will bear in mind the request if, upon further review of the case, the Court determines that appointment of counsel is necessary. Petitioner need not file another motion regarding this issue.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 7, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 7, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS